

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its)
own motion, seeking to amend Title 291,)
Chapter 5, Telecommunications Rules and)
Regulations, to adopt rules regarding)
intrastate switched access regulation.)

RULE AND REGULATION NO. 178



COMMENTS OF VERIZON

Verizon¹ submits its comments on the Commission’s Second Set of Proposed Rules relating to tariffs and contracts for switched access service, issued August 16, 2011.

The proposed rules describe the process for the filing, negotiation, review and approval of switched access rates, and provide that carriers may enter into contracts to provide switched access service at rates different than those in their tariffs, subject to certain filing requirements. The Commission’s latest set of proposed rules incorporates the input of various parties, and thus constitutes an improvement over the prior version. Verizon supports the Commission’s effort to establish a definitive set of procedures, and offers only two recommendations to achieve additional clarity and improvement.

In section 014.01D (Special Contracts for Switched Access Services), the Order proposes to add the following sentence: “No carrier shall offer the terms and provisions of such contracts in an unreasonable or discriminatory manner.” Typically, public utility regulation is only aimed at prohibiting *unreasonable* discrimination among similarly situated entities. *See, e.g.*, 47 U.S.C. §§ 201(b) and 202(a). Because not all forms of discrimination are unreasonable or unlawful (for example, different pricing based on

¹ The Verizon entities participating in these comments include MCI Communication Services d/b/a Verizon Business; MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services; Verizon Long Distance LLC; Verizon Enterprise Solutions LLC; and Verizon Select Services, Inc. (collectively “Verizon”).

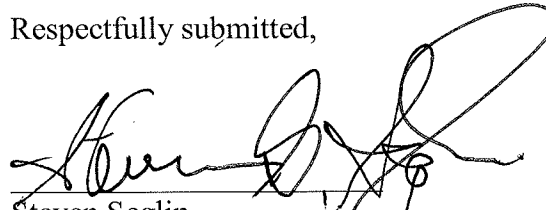
different traffic volumes), Verizon recommends that the sentence be modified to read “No carrier shall offer the terms and provisions of such contracts in an unreasonable or unreasonably discriminatory manner.”

Proposed section 014.01D3 would require a local exchange carrier that maintains a list of switched access contracts in its tariff to include in such list “[t]he rates, charges, regulations, terms, or conditions [in each contract] that vary from the comparable switched access tariff.” This new language was intended to replace language in the prior version that would have required carriers to “summarize the differences between the switched access tariff provisions and the contract.” In comments filed on May 27, 2011, Verizon explained why the previous language was problematic, but the new language does not overcome the concerns Verizon identified. Because both a carrier’s access tariffs and individual contracts are often lengthy, detailed and complex, attempting to describe all rates and terms in the contract that differ from those in the carrier’s tariffs could prove to be difficult, time-consuming and, therefore, unduly burdensome. Moreover, there is no need for carriers to detail such information because the proposed rules also require a LEC to provide a summary list of contracts in the carrier’s tariff or to file a copy of the contracts themselves. These provisions will give carriers the opportunity to request and review any switched access contracts, and as experienced and sophisticated service providers, they are readily capable of determining any significant differences between the LEC’s tariff and the rates and terms in a contract it has with another carrier. Accordingly, Verizon recommends that proposed section 014.01D3 be deleted.

With the two changes recommended above, the proposed rules would achieve the Commission's goal of clarifying the policies and regulations relating to switched access tariffs and contracts.

Dated: September 30, 2011

Respectfully submitted,



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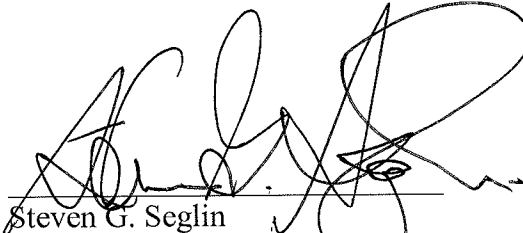
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was sent electronically on September 30, 2011, to the following:

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